

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOBBY D. COLBERT,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 2:24-cv-01439-DGE-

SKV

ORDER ADOPTING REPORT AND
RECOMMENDATION
(DKT. NO. 7.) AND ORDER ON
MOTION TO STAY (DKT. NO. 9)

This matter comes before the Court on the Honorable S. Kate Vaughan, United States Magistrate Judge’s Report and Recommendation (“R&R”) (Dkt. No. 7), which recommends Petitioner’s federal habeas petition (Dkt. No. 5) be dismissed for lack of jurisdiction and that a certificate of appealability be denied. Petitioner did not file an objection to the R&R, instead, Petitioner filed a motion to stay pending appeal of the order granting his application to proceed *in forma pauperis*. (Dkt. No. 9; *see also* Dkt. No. 8.)

The R&R recommends the Court dismiss Petitioner’s habeas petition because “[a] review of this Court’s records reveals that Petitioner has filed or submitted ten other federal habeas


1 petitions challenging his conviction under Skagit County Superior Court Case No. 04-1-00497-
2 6” and “[u]nder r § 2244(b)(2), the Court must dismiss a claim presented in a successive petition
3 if it was presented in a prior habeas petition.” (Dkt. No. 7 at 2.)

4 Further, the R&R recommends the Court deny the Petitioner a certificate of appealability.
5 (*Id.*) Because, Petitioner has not made a “a substantial showing of the denial of a constitutional
6 right.” (*Id.* at 3.) (citing 28 U.S.C. § 2253(c)(2)).

7 The Court finds no disagreement in the R&R’s findings and conclusions.

8 Accordingly, having reviewed the record de novo, and having received no objection
9 addressing the Honorable S. Kate Vaughan, United States Magistrate Judge’s Report and
10 Recommendation, the Court **ADOPTS** the R&R in its entirety and **DISMISSES** Petitioner’s
11 federal habeas petition and **DENIES** petitioner a certificate of appealability. As such,
12 Petitioner’s Motion to Stay is **DENIED** as moot.

13 Dated this 15th day of October, 2024.

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16 David G. Estudillo
17 United States District Judge
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